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PATENT
Attorney Docket No. DOW-04647

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: George Peter Lomonossoff *et al.*
Serial No.: 09/580,704
Filed: 05/30/00
Entitled: **Modified Plant Viruses As Vectors**

Group No.: 1638
Examiner:

OFFICE OF PETITIONS
DEPUTY AC PATENTS

AUG 20 2001

RECEIVED

Petition to Accept Application Under C.F.R. § 1.47

Assistant Commissioner for Patents
Washington, D.C. 20231

OFFICE OF PETITIONS
DEPUTY AC PATENTS

AUG 20 2001

RECEIVED

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)(1)(i)(A)	
I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date shown below, being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.	
Dated: <u>February 12, 2001</u>	By: <u>Traci E. Light</u> Traci E. Light

Sir or Madam:

On behalf of Petitioner, I hereby request consideration of the application documents in the instant application without the signature of George Lomonossoff for refusal to sign.

Accordingly, I state that:

- 1) On October 3, 2000, my assistant, Christopher J. Collins, e-mailed George Lomonossoff attaching the application documents for the instant application. (Tab A)
- 2) November 30, 2000, Chris Collins sent George Lomonossoff a follow-up letter and application documents via facsimile. (Tab B)
- 3) December 5, 2000, Chris Collins e-mailed George Lomonossoff a reminder letter with the documents attached, urging his response. (Tab C)
- 4) December 7, 2000, Chris Collins received an e-mail from George Lomonossoff stating he has sent the paper work to the commercial people in JIC for review and would only return the documents if they are approved. (Tab D)
- 5) December 20, 2000, Chris Collins e-mailed Don O'Nion, the JIC secretary, requesting his inquiry into this matter along with a response as soon as possible. (Tab E)

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6) December 29, 2000, Chris Collins e-mailed Don O'Nion a follow-up message, stating the urgency of this request and the approaching deadline. Chris requested a timely response on their behalf. (Tab F)

7) Due to a lack of response by Don O'Nion, Chris Collins e-mailed George Lomonosoff on January 3, 2001, and requested his inquiry into the matter. (Tab G)

8) January 16, 2001, Chris Collins e-mailed Don O'Nion an urgent reminder regarding the application documents. (Tab H)

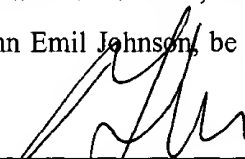
9) January 16, 2001, Chris Collins e-mailed George Lomonosoff an urgent reminder regarding the application documents and requested another inquiry in the status of the documents. (Tab I)

10) For the Examiner's convenience, copies of the facsimiles and e-mails are submitted herein.

11) Dr. George Lomonosoff's last known address is:
John Innes Centre for Plant Science Research
Colney Lane, Norwich NR4 7UH
Great Britain

Petitioner respectfully requests that the application documents, Declaration and Assignment, made by the remaining co-inventor, John Emil Johnson, be granted.

Dated: February 12, 2001



Peter G. Carroll
Registration No. 32,837

MEDLEN & CARROLL, LLP
220 Montgomery Street, Suite 2200
San Francisco, California 94104
415.705.8410

Subject: Modified Plant Viruses as Vectors

Date: Tue, 03 Oct 2000 09:58:59 -0400

From: "Chris J. Collins" <cjcollins@medlencarroll.com>

Organization: Medlen & Carroll, LLP

To: George.Lomonosoff@bbsrc.ac.uk



Dear Mr. Lomonosoff:

I work for the law firm of Medlen & Carroll, and have been contracted by Dow Chemical Company to prosecute the Modified Plant Viruses as Vectors application which was filed May 30, 2000 in the United States.

The U.S. Patent and Trademark office requires us to file certain executed documents from the inventors of the application. Attached are the two such documents, Assignment and the Declaration, which are in wordperfect format. Please print out these two documents and sign them. Once these documents are executed please fax them back to our office at 011-617-252-3323 and mail the originals. If you have any problems printing the forms, I can fax them to you.


Also, we are trying to locate your co-inventor, John Emil Johnson, regarding this application. Would you have any information which would help us locate him (i.e. e-mail address, phone number or address)?


If you have any questions please feel free to contact our office at 011-617-252-3353.

Thank you in advance for your help.

Christopher J. Collins
Medlen & Carroll, LLP
4 Cambridge Center, 2nd Floor
Cambridge, Massachusetts USA 02142

Phone: 011-617-252-3353
Fax: 011-617-252-3323
e-mail: cjcollins@medlencarroll.com

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Facsimile Cover Sheet

**MEDLEN &
CARROLL**
LLP

TO: Dr. George P. Lomonossoff
Facsimile: 44 1603 456844

FROM: Christopher J. Collins

Date: November 30, 2000

Time: 10:15 a.m.

Pages (including cover): 4

Client Code: Dow-04647

The documents accompanying this facsimile transmission contain information from the law firm of MEDLEN & CARROLL, LLP, which are confidential or privileged. The information is intended to be for the use of the individual or entity named on this cover sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the return of the original documents. Thank you.

MESSAGE:

Please see attached.

Patent, Trademark & Copyright Attorneys

Four Cambridge Center Second Floor Cambridge Massachusetts 02142 Tel 617.252.3353 Fax 617.252.3323

West Coast

Midwest

East Coast

**MEDLEN &
CARROLL**
LLP

November 30, 2000

VIA FACSIMILE

Dear Dr. Lomonossoff:

This is a follow-up on an e-mail I sent to you on October 3, 2000. I work for the patent law firm of Medlen & Carroll, and have been contracted by Dow Chemical Company to prosecute the Modified Plant Viruses as Vectors application which was filed May 30, 2000 in the United States.

The U.S. Patent and Trademark Office requires us to file certain executed documents from the inventors of the application. Attached are the two such documents, Assignment and the Declaration. Unfortunately, we are not in possession of your home residence and on the Declaration, below the signature line, this information is also required. Please print your home residence on the Declaration and sign both of the documents and fax them back to our office at 011-617-252-3323. Your prompt response would be appreciated, the filing deadline is quickly approaching.

We have sent your co-inventor, Dr. Jack Johnson, these documents for his signature.

If you have any questions please feel free to contact our office at 011-617-252-3353. Thank you for your assistance on this matter.

Very truly yours,

MEDLEN & CARROLL, LLP



Christopher J. Collins

Enclosures

Patent, Trademark and Copyright Attorneys

Four Cambridge Center Second Floor Cambridge Massachusetts 02142 Tel 617.252.3353 Fax 617.252.3323
West Coast East Coast

ASSIGNMENT

WHEREAS, WE, George Peter Lomonossoff and John Emil Johnson, hereinafter referred to as "ASSIGNOR", have invented certain new and useful improvements as described and set forth in the below-identified application for United States Letters Patent:

Title of Invention: **Modified Plant Viruses As Vectors**

Filing Date: 05/30/00 Serial No.: 09/580,704

WHEREAS, The Dow Chemical Company, a Michigan corporation, Washinton Street, Midland, Michigan 48674, hereinafter referred to as "ASSIGNEE", is desirous of acquiring the entire right, title and interest in said invention and application and in any Letters Patent which may be granted on the same;

NOW THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that, for and in consideration of the sum of One Dollar (\$1.00) lawful money paid to ASSIGNOR by ASSIGNEE and other good and valuable consideration, receipt of which is hereby acknowledged, ASSIGNOR has sold, assigned and transferred, and by these presents does sell, assign and transfer unto said ASSIGNEE, and ASSIGNEE's successors and assigns, all right, title and interest in and to said invention, said application for United States Letters Patent, and any Letters Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, prolongations or extensions thereof, said interest to be held and enjoyed by said ASSIGNEE as fully and exclusively as it would have been held and enjoyed by said ASSIGNOR had this assignment and transfer not been made, to the full end and term of any Letters Patent.

ASSIGNOR further agrees that ASSIGNOR will, without charge to said ASSIGNEE, but at ASSIGNEE's expense, cooperate with ASSIGNEE in the prosecution of said application and/or applications; execute, verify, acknowledge and deliver all such further papers, including applications for Letters Patent and for the reissue thereof, and instruments of assignment and transfer thereof; and will perform such other acts as ASSIGNEE lawfully may request, to obtain or maintain Letters Patent for said invention and improvement in any and all countries, and to vest title thereto in said ASSIGNEE, or ASSIGNEE's successors and assigns.

IN TESTIMONY WHEREOF, ASSIGNOR has hereunto signed ASSIGNOR's names to this assignment on the date indicated below.

George Peter Lomonossoff

John Emil Johnson

STATE OF _____)

COUNTY OF _____)

ss.

On this _____ day of _____, in the year of _____, before me, the undersigned notary public, personally appeared the above-named ASSIGNOR, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same.

NOTARY PUBLIC

SEAL

DECLARATION FOR PATENT APPLICATION

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name. I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **Modified Plant Viruses As Vectors**, the specification of which was filed on **05/30/00** as Application Serial No. **09/580,704**. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

<u>PCT/GB 92/00589</u>	<u>PCT</u>	<u>04/02/92</u>	<u>Yes</u>
<i>Number</i>	<i>Country</i>	<i>Day/Month/Year Filed</i>	<i>Priority Claimed</i>

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>08/137,032</u>	<u>12/15/93</u>	<u>Pending</u>
<i>Application Serial No.</i>	<i>Filing Date</i>	<i>Patented, Pending or Abandoned</i>

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole or First Inventor: **George Peter Lomonossoff**

Inventor's Signature: _____ Date: _____

Residence: _____

Citizenship: Great Britain

Post Office Address: _____

Full Name of Second Joint Inventor: **John Emil Johnson**

Inventor's Signature: _____ Date: _____

Residence: 8706 Junco Place, San Diego , CA 92129

Citizenship: United States of America

Post Office Address: 8706 Junco Place, San Diego , CA 92129

*** TX REPORT ***

TRANSMISSION OK

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**MEDLEN &
CARROLL**
LLP

TO: Dr. George P. Lomonossoff
Facsimile: 44 1603 456844

FROM: Christopher J. Collins

Date: November 30, 2000

Time: 10:15 a.m.

Pages (including cover): 4

Client Code: Dow-04647

The documents accompanying this facsimile transmission contain information from the law firm of MEDLEN & CARROLL, LLP, which are confidential or privileged. The information is intended to be for the use of the individual or entity named on this cover sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the return of the original documents. Thank you.

MESSAGE:

Please see attached.

Facsimile Cover Sheet

Subject: Dow-04647

Date: Tue, 05 Dec 2000 14:33:31 -0500

From: "Chris J. Collins" <cjcollins@medlencarroll.com>

Organization: Medlen & Carroll, LLP


To: george.lomonosoff@bbsrc.ac.uk


Dr. Lomonosoff:

This is to follow-up on the fax I sent on November 30, 2000. We are running up against a deadline for filing the paper work on the Modified Plant Viruses application. Please print your home residence on the Declaration and sign both of the documents that were faxed to you (attached is an additional set for your convenience). Once the documents have been signed please fax them back to our office today, if possible, at 011 617 252 3323.

If you have any questions, please feel free to contact our office at 011-617-252-3353.

Thank You
Christopher J. Collins

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 Assign.cc	Name: Assign.cc Type: unspecified type (application/octet-stream) Encoding: base64
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Subject: Re: Dow-04647

Date: Thu, 7 Dec 2000 12:02:34 +0000

From: "george.lomonossoff" <george.lomonossoff@bbsrc.ac.uk>

To: cjcollins@medlencarroll.com

Dear Christopher Collins,

Thanks for the e-mail. I've sent all the information up to our commercial people who want to check over what I'll be signing. As soon as I get the all clear from them, I'll return the documents.

Yours sincerely,

George Lomonossoff

Subject: George Lomonosoff Documents

Date: Wed, 20 Dec 2000 15:39:07 -0500

From: "Chris J. Collins" <cjcollins@medlencarroll.com>

Organization: Medlen & Carroll, LLP

To: Don.o'nions@bbsrc.ac.uk

Dear Mr. O'nions:

I work for the law firm of Medlen & Carroll, and have been contracted by Dow Chemical Company to prosecute a patent application in which George Lomonosoff is a co-inventor.

The U.S. Patent and Trademark office requires us to file certain executed documents from the inventors of the application. We have been in contact with George Lomonosoff regarding these documents, and mentioned he had forwarded the documents to your department, JIC secretary, for clearance a few weeks ago.

We are running up against a deadline for filing the paper work on this application. Please look into this matter and respond as soon as possible. To stream line the process please fax the documents to our office at 001-617-252-3323.

If you have any questions please feel free to contact our office at 001-617-252-3353.

Thank you in advance for your help.

Christopher J. Collins
Medlen & Carroll, LLP
4 Cambridge Center, 2nd Floor
Cambridge, Massachusetts USA 02142

Phone: 001-617-252-3353
Fax: 001-617-252-3323
e-mail: cjcollins@medlencarroll.com

Subject: George Lomonosoff Documents

Date: Fri, 29 Dec 2000 15:17:21 -0500

From: "Chris J. Collins" <cjcollins@medlencarroll.com>

Organization: Medlen & Carroll, LLP

To: Don O'nions <Don.o'nions@bbsrc.ac.uk>

Dear Don:

This is a follow-up to my 12-20-2000 e-mail. This is urgent request, time is running out on filing these documents with the patent and trademark office.

I wrote on Dec. 20, 2000:

I work for the law firm of Medlen & Carroll, and have been contracted by Dow Chemical Company to prosecute a patent application in which George Lomonosoff is a co-inventor.

The U.S. Patent and Trademark office requires us to file certain executed documents from the inventors of the application. We have been in contact with George Lomonosoff regarding these documents, and mentioned he had forwarded the documents to your department, JIC secretary, for clearance a few weeks ago.

We are running up against a deadline for filing the paper work on this application. Please look into this matter and respond as soon as possible. To stream line the process please fax the documents to our office at 001-617-252-3323.

If you have any questions please feel free to contact our office at 001-617-252-3353.

Thank you in advance for your help.

Christopher J. Collins
Medlen & Carroll, LLP
4 Cambridge Center, 2nd Floor
Cambridge, Massachusetts USA 02142

Phone: 001-617-252-3353
Fax: 001-617-252-3323
e-mail: cjcollins@medlencarroll.com

Subject: DOW-04647

Date: Wed, 03 Jan 2001 14:31:47 -0500

From: "Chris J. Collins" <cjcollins@medlencarroll.com>

Organization: Medlen & Carroll, LLP

To: George Lomonossoff <george.lomonossoff@bbsrc.ac.uk>

Dear Dr. Lomonossoff:

Happy Holidays!

Checking back to see if your paper work, for the above referenced matter, has come back from your commercial people. I've e-mailed Don o'nions, from the JIC department, twice but have received no response.

We are reaching the URGENT stage to file the documents with the U.S. Patent and Trademark Office. It would be greatly appreciated if you would check on the status of the documents.

If you have any questions feel free to contact our office at 001-617-252-3353.

Best wishes for the New Year.

Chris Collins

Subject: George Lomonosoff Documents

Date: Tue, 16 Jan 2001 16:51:49 -0500

From: "Chris J. Collins" <cjcollins@medlencarroll.com>

Organization: Medlen & Carroll, LLP

To: Don O'nions <Don.o'nions@bbsrc.ac.uk>

Dear Mr. O'nions:

This is a URGENT reminder. I've e-mailed you on 12/20/2000 and 12/29/2000, regarding the documents that George Lomonosoff had sent to your department for review, but have received no response.

We have less than three weeks to get Dr. Lomonosoff's executed documents returned to our office, request executed documents from Dow Corporation (we can only request these documents once we receive Dr. Lomonosoff's documents) and file all the documents with the U.S. Patent and Trademark Office. If all the documents are not filed within that time period, the application will go abandoned.

Please, as soon as possible fax the executed documents back to our office at 001-617-252-3323. If you have any questions please feel free to contact our office at 001-252-3353.

Thank You
Christopher J. Collins

Medlen & Carroll, LLP
4 Cambridge Center, 2nd Floor
Cambridge, Massachusetts USA 02142

Phone: 001-617-252-3353
Fax: 001-617-252-3323
e-mail: cjcollins@medlencarroll.com

Subject: DOW-04647 Documents

Date: Tue, 16 Jan 2001 17:14:50 -0500

From: "Chris J. Collins" <cjcollins@medlencarroll.com>

Organization: Medlen & Carroll, LLP

To: George Lomonossoff <george.lomonossoff@bbsrc.ac.uk>

Dear Dr. Lomonossoff:

We are really at an URGENT stage in filing the documents for the "Modified Plant Viruses As Vectors" application that was filed with the U.S. Patent and Trademark Office on 5/30/2000. Per my e-mail of 1/03/2001 we have had no luck contacting Don O'nion in the JIC department to determine if your paperwork has been reviewed.

Our time frame is down to less than three weeks to file all the documents required from the U.S. Patent and Trademark Office. Once we receive your documents we must request paperwork from the Assignee (Dow Chemical Corporation). If all the documents are not filed within this time period the application will go abandoned.

If there is any chance you could look into this matter it would be greatly appreciated.

Thank You
Christopher J. Collins

Medlen & Carroll, LLP
4 Cambridge Center, 2nd Floor
Cambridge, Massachusetts USA 02142

Phone: 001-617-252-3353
Fax: 001-617-252-3323
e-mail: cjcollins@medlencarroll.com